

REMARKS

As a preliminary matter, Applicant thanks the Examiner for participating in telephone calls with Applicant's representative on November 14, November 21 and December 15, 2006. The Examiner agreed that claims 1, 25 and 29 would be allowable if those claims were to be amended to incorporate the features of claim 30, which the Examiner has indicated includes allowable subject matter (*see* Office action mailed September 18, 2006, pg. 6).

Claims 1, 12, 25 and 29 are currently amended. Claims 35-39 are new.

Claim Objections

The Examiner has objected to claim 34 for failing to include the claim numeral '34.' Applicant has corrected claim 34 and requests withdrawal of the objection.

Claim Rejections

Claims 1, 25-27 and 29 were rejected as anticipated by Ziarati (U.S. Patent No. 5,627,902). Claims 12, 28 and 31 were rejected as unpatentable over Ziarati.

In view of the above amendments and the following remarks, applicant respectfully requests withdrawal of the rejections and allowance of the claims.

Claim 1 has been amended to include the features of originally filed claim 12 and recites in pertinent part that an ear cup of a magnetically inert headset includes a removable piece "adapted to provide access to [an] ear insert and [a] pneumatic port." As shown in the example headset of FIG. 1B and explained in paragraph 19 of the specification, a removable access piece 112 is provided with ear cup 116. The piece 112 covers a portion of the headset that includes an ear insert 102 and pneumatic port 106. In certain implementations, a patient places the ear insert and pneumatic port within an ear canal over which the headset is subsequently positioned. The removable piece allows a user to then open up the headset such that a user has access to both the pneumatic port extending out of the exposed ear canal as well as a pneumatic tubing located within the headset. Having opened the headset, the user then may attach pneumatic tubing to the

pneumatic port, without requiring removal of the headset. After attaching the tubing to the pneumatic port, the user then may re-attach the removable piece back on the headset. Accordingly, the user can, in certain implementations, attach pneumatic tubing from a headset to an ear insert in order to provide audio transmission to the patient without requiring removal of the headset. Furthermore, by placing the ear insert within the ear canal and re-attaching the removable piece, the headset may provide two levels of noise protection in which a first level results from sound reduction due to the conformable ear insert and a second level resulting from sound reduction due to the ear cup.

The Office action concedes that the Ziarati patent does not disclose a removable piece to provide access to an ear insert and a pneumatic port. However, the Office action asserts (*see* pg. 5) that it is well known in the art to provide removable pieces for access to “electronics, etc., for repair or replacement thereof” and, therefore, it would have been obvious to one of ordinary skill in the art to modify the ear cup of the Ziarati patent to include a removable piece allowing easy access to components contained therein. Applicant respectfully disagrees.

It would not have been obvious to one of ordinary skill in the art to modify the Ziarati patent to include a removable piece for the reasons set forth by the Office action. The Ziarati patent discloses a headset 23 which includes an outer set 24 and an inner set 25 (*see* FIG. 2A, col. 7, lines 39-65). The outer set 24 includes ear cups 26 that are “circumaural, meaning that the ear cups 26 completely enclose each ear” (col. 7, lines 45-48). The inner set 25 is connected to a tubing 22 for conducting sound waves and has an L shape so that its eartip 27 can hook into a patient’s ear canal (*see* FIG. 3, col. 7, lines 56-62). Clearly, if the inner set 25 needed to be replaced or repaired, one could easily access the inner set 25 through the circumaural openings in the ear cups 26 and, therefore, an additional removable piece on the ear cups would not be needed.

Furthermore, although it may be well known in the art to provide a removable piece on an ear cup (*see* references included with attached IDS), those removable pieces are provided only to allow access to electronics such as batteries (*e.g.*, U.S. Patent No. 4,439,645 col. 1, lines 44-46). However, the Ziarati patent does not disclose or suggest including *any* electronics within

headset 23. Instead, the only components shown within headset 23 are the inner set 25 and tubing 22, which are made from plastic (col. 7, lines 4-12). Therefore, it would not have been obvious to one of ordinary skill in the art to incorporate a removable piece for access to electronics within the headset of the Ziarati patent. Indeed, it would not even make sense to include electronics within the headset of the Ziarati patent as the headset is intended to be used in an MRI machine (*see* Abstract).

At least for the foregoing reasons, claim 1 should be allowed.

Claims 12 and 35 depend from claim 1 and should be allowed for at least the same reasons as claim 1.

Likewise, independent claim 25 recites a removable piece that allows access to an ear insert, and claim 29 recites removing a cover to provide access to an ear insert having a through-hole. Those features are not disclosed or suggested by the Ziarati patent or the other references of record. Therefore, claims 25 and 29 should be allowed for at least the same reasons as claim 1.

Claims 26-28 and 36-37 depend from claim 25 and should be allowed for at least the same reasons as claim 25.

Claims 30-34 and 38-39 depend from claim 29 and should be allowed for at least the same reasons as claim 29.

Moreover, the dependent claims recite additional features that are independently patentable. For example, claims 12, 36 and 38 recite the removable piece is adapted to "provide access to an ear canal." Support for this feature may be found in the specification in FIG. 1B and paragraph 19. As discussed above, the removable piece allows a user to access an ear insert within a headset in order to place the ear insert within a patient's ear canal while the headset is positioned over the patient's ears. Neither the Ziarati patent nor the other references of record disclose or suggest a removable piece that allows access to an ear canal.


At least for this additional reason, claims 12, 36 and 38 should be allowed.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

No fees are believed due. However, please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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